

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL DAVID CARR,

Plaintiff,

v.

DANIEL E. CUEVA, et al.,

Defendants.

No. 2:24-cv-1680 DJC AC P

ORDER

Plaintiff, a state prisoner proceeding without counsel, seeks relief pursuant to 42 U.S.C. § 1983. By order filed April 21, 2025, plaintiff's complaint was screened, and plaintiff was given the options of amending the complaint or proceeding immediately on his Eighth Amendment deliberate indifference to his adequate nutrition against defendants Patterson, Dr. Dail, Rodriguez, Sandoval, and Silva. ECF No. 34. Plaintiff has now notified the court that he would like to amend the complaint. ECF No. 36.

On May 16, 2025, the court also received plaintiff's new motion for a preliminary injunction/temporary restraining order. ECF No. 35. Plaintiff seeks a preliminary injunction or temporary restraining order requiring defendant Patterson to restore his cell-feed regimen. Id. at 2. Because plaintiff has elected to amend the complaint, and the second amended complaint will no longer be the operative complaint, the court cannot know at this times what claims plaintiff may or may not state in a third amended complaint ("TAC"), nor which defendants the court may

1 have jurisdiction over. Accordingly, the court will forego ruling on the motion for preliminary  
2 injunction/temporary restraining order until the TAC has been filed and screened.

3 Accordingly, IT IS HEREBY ORDERED that:

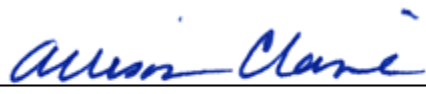
4 1. Plaintiff shall have thirty days from the service of this order to file an amended  
5 complaint as outlined in the April 21, 2025, screening order. If plaintiff files an amended  
6 complaint, it should clearly be labeled as a "Third Amended Complaint."

7 2. If plaintiff fails to file a third amended complaint, the case will proceed on the second  
8 amended complaint, as screened, and it will be recommended that plaintiff's First, Fourth, and  
9 Fourteenth Amendment claims under the U.S. Constitution, and claims under 18 U.S.C. § 241, 42  
10 U.S.C. § 1985, the ADA, and state laws and regulations be dismissed without prejudice.

11 3. The court will rule on the pending motion for preliminary injunction/TRO (ECF No.  
12 35) after the TAC has been filed and screened.

13 4. The Clerk of the Court is directed to send plaintiff a copy of the prisoner complaint  
14 form used in this district.

15 DATED: May 27, 2025

16   
17 ALLISON CLAIRE  
18 UNITED STATES MAGISTRATE JUDGE  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28